

The City Attorney
City of San Diego

MEMORANDUM

236-6220

DATE: May 27, 1986

TO: Ed Struiksma, Deputy Mayor
FROM: City Attorney
SUBJECT: Conflict of Interest Concerning an Officer of
the Friends of the Library Serving as a Library
Commissioner

In response to your request of April 28, 1986 pertaining to the appointment of Betty Sherman to the Board of Library Commissioners, we do not perceive a conflict of interest to exist with her duties as an officer of the Friends of the Library. We have reviewed our earlier memorandum dated October 6, 1981 on an issue related to fund raising by the Library Commission, and conclude that that memorandum does not compel a different conclusion.

Our memorandum of October 6, 1981 concluded that members of the Board of Library Commissioners should be discouraged from soliciting donations in their official capacity on City letterhead stationery. That opinion was based on the premise that a book vendor who does business with the City might feel compelled to contribute to a fund raising effort if he received such a request on City letterhead stationery. Reference in that memorandum to the San Diego City Code of Ethics contained in Administrative Regulation No. 95.60 alluded to the appearance of impropriety thereby created. That memorandum did not, however, provide that fund raising was a prohibited function of the Library Commission.

Your question is narrower since it deals with whether or not Ms. Sherman's dual status as both a Friend of the Library and as a Library Commissioner creates a conflict of interest because of some possible appearance of impropriety. Both functions are advisory. Fund raising is not a designated function of the Library Commission. The Library Commission does not supervise or exercise any appreciable degree of control over the Friends of the Library, other than through policies adopted by the City Council. Any gifts or funds that are solicited by the Friends of

the Library are subject to City Council approval separate from and independent of any recommendation by either the Library

Commission or the Friends of the Library. Hence, it cannot be said that any appearance of impropriety is necessarily created by Ms. Sherman's dual membership.

Next, we examine whether a Library Commissioner should be prohibited or discouraged from fund raising for the Library. Our earlier memorandum dated October 3, 1979 did not prohibit either that role or function to the Commission or its members.

Relating these two memorandums to the spirit of Administrative Regulation No. 95.60, we conclude that unless fund raising activity by Ms. Sherman is carried out in such a manner to implicate the City or City staff, then no disqualifying status or conflict of interest is perceived. You could, of course, request Ms. Sherman to relinquish her role as a Library Commissioner or as a Friend of the Library, but to do so under these circumstances does not appear necessary.

JOHN W. WITT, City Attorney

By

Rudolf Hradecky

Deputy City Attorney

RH:mem:273

cc William Sannwald

MS-86-4